UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

2017 APR -7 AM 8:46

DEPUTY CLERK

Bateman
Plaintiff

v.

Bateman
Defendant

5-17CV0072-C
Civil Action No.

COMPLAINT

Date	April 7, 2017
Signature	John R. Bateman
Print Name	John R. Bateman
Address	5045 Cassandra Way
City, State, Zip	Reno, NV 89523-1876
Telephone	(775) 771-5923 (775) 787-3452

ORDER FOR SPECIFIC PERFORMANCE

On this 7th day of April, 2017, it was brought to the attention of the Court the following:

1. On the 5th day of June, 2002, a stop payment order was issued so that income intended for the surviving spouse was not properly received and would not be received until the Separate Property was distributed in 3 equal divisions on the 15th day of October, 2003. (Only then did income intended for the surviving spouse resume regular distribution from the Separate Property Marital Trust _ John, lawfully.)

2. This lapse of income distribution to the surviving spouse from Separate Property constituted a violation of Tax Code, thereby resulting in a deadline of the 15th day of August, 2002, for payment of taxes due since the 15th day of November, 2001.

3. On the 8th day of March, 2005, $300,000.00 was withdrawn by check number 1001 from the Community Property Marital Trust.

4. On the 1st day of July, 2005, required reports were abruptly cancelled. (See the Last Will and Testament of Harold Marion Bateman, page 6, paragragh 7.)

WHEREFORE, PREMISES CONSIDERED, JOHN ROBERT BATEMAN prays that the Court enter an Order for Specific Performance as follows:

1. $20,000.00 each from the Separate Property Marital Trusts - John, Jim, and Ben be transferred as income to the Estate of Martha Joan Bateman.

2. All United States Federal and State taxes due be paid properly.

3. $300,000.00 be returned to the Community Property Marital Trust.

4. Required reports be provided to all interested parties upon initial request.

Respectfully submitted,

John Robert Bateman
5045 Cassandra Way
Reno, NV 89523-1876
(775) 771-5923 (Telephone)

By: *John R. Bateman*
John R. Bateman

SUPPORTING RESEARCH IN

UNIFORM PROBATE CODE

Article II. Estates, Trusts, and Fiduciary Relationships
Chapter 2. Intestacy, Wills, and Donative Transfers
2-3-106. Interested person's right to demand notice of order or filing. (1)...file a demand for notice with the Court...

2-2-537. Penalty clause for contest. A provision in a will purporting to penalize an interested person for contesting the will or instituting other proceedings relating to the estate is unenforceable if probable cause exists for instituting proceedings.

Chapter 3. UPC Probate and Administration

Part 9. Special Provisions Relating to Distribution

2-3-906. Improper distribution or payment - liability of distributee or payee. ...a distributee of property improperly distributed or paid...is liable to return the property improperly received and its income since distribution. If he does not have the property, then he is liable to return the value as of the date of disposition of the property... .

Part 4. Supervised Administration

2-3-402. Petition and Order.

(2) After notice... the Court shall order supervised administration...(b) only upon finding that it is necessary for protection of persons interested in the estate if the decedent's will directs unsupervised administration.

2-3-404. Powers and duties of personal representative.

(1) A supervised personal representative is responsible to the interested parties, and is subject to directions concerning the estate...on the motion of any interested party.

Chapter 3. UPC Probate and Administration (continued)

2-3-405. Interim Orders. Interim orders...granting other supervised administration on the application of...any interested person.

Part.5. Personal Representative Appointment Priorities, Bond, and Termination

2-3-503. Objection to appointment. (2)(b) in case of objection to appoint appointment of a person by an heir or devisee appearing to have a substantial interest in the estate, the Court may appoint a person who is acceptable to heirs and devisees....

2-3-526. Termination of appointment. Removal for cause.
(1) a person interested in the estate may petition for removal of a personal representative for cause at any time.
(2) Cause for removal exists: (b) if it is shown that a personal representative...has mismanaged the estate or failed to perform any duty...

Part 6.

2-3-617. Order restraining personal representative. ( )
(1) On petition of any interested person, the Court by temporary order may restrain a personal representative from performing specified acts or make any other order to secure proper performance of his duty if it appears to the Court that the personal representative may take some action which would jeopardize unreasonably the interest of the interested person.
(2)...hearing within 10 days. Notice as the Court directs shall be given to the personal representative and his attorney, if any...

Part 7.

Chapter 3. UPC Probate and Administration (continued)

Part 7. Special Administrator

2-3-701. Special Administrator - how and when appointed.

(2) in a formal proceeding...on petition...after notice and hearing, that appointment is necessary to preserve the estate or to secure its proper administration...

2-3-704. Special Administrator - formal proceedings - powers and duties. A special administrator appointed by order of the Court...has the power of a general personal representative.

Chapter 9. Disposition of Community Property Rights at Death

Part 1. Uniform Disposition of Community Property Rights at Death

2-9-107. Disposition upon death...With respect to property to which this part applies, the one-half of the property which is the property of the decedent is not subject to the surviving spouse's right to elect against the will.

2-9-116. Limitations on testamentary disposition. This part does not authorize a person to dispose of property by will if it is held under limitations imposed by law preventing testamentary disposition by that person.

Chapter 12. Probate and Administration Supplementary Provisions

Part 2. Will Contest

2-12-206. Fees and expenses - by whom paid. If probate is confirmed ...by party contesting. If probate is revoked...costs, but not attorney's fees, by party resisting or out of the property of the decedent, as the Court directs.

Chapter 33. Trust Code General Provisions

Part 2. Constructive Trusts

2-33-219. Constructive Trusts. A constructive trust arises when a person holding title to property is subject to an equitable duty to convey it to another on the ground that (he) would be unjustly enriched if he were permitted to retain it.

Part 4. Modification and Termination of Trusts

2-33-402. Method of revocation by trustor.

(2) A trust may not be revoked by an attorney-in-fact under a power of attorney...

2-33-416. Division of trusts. On petition by a...beneficiary, the Court, for good cause shown, may divide a trust into... separate trusts, if the Court determines that dividing the trust will not defeat or substantially impair...the interests of the beneficiary.

Part 6. Trustees

2-33-604. Certificate of trustee. On application by the trustee, the clerk of the district Court shall issue a certificate that the trustee is a duly appointed and acting trustee under the trust if the Court file shows the incumbency of the trustee.

2-33-617. The liability for acts or omissions of a resigning trustee...is not released or affected in any manner by the trustee's resignation.

2-33-618. Removal of a trustee (2)The grounds for removal of trustee:

(a) if the trustee has committed a breach of the trust;

(b) if hostility of lack of cooperation among co-trustees impairs;

(d) if the trustee fails to act; or (e) for other good cause.

Chapter 33. Trust Code General Provisions (continued)

(3) If it appears to the Court that trust property or the interests of a beneficiary may suffer loss...the Court may... on petition of a beneficiary, compel the trustee whose removal is sought to surrender trust property...to a receiver or temporary trustee. The Court may also suspend the powers of the trustee to the extent the Court considers necessary.

2-33-620. Delivery of property by former trustee upon occurrence of vacancy...former trust...shall deliver the trust property... to a person appointed by the Court...and remains responsible for the trust property until it is delivered. A trustee who...is removed has the powers reasonably necessary...to preserve the trust property until it is delivered...

2-33-621. Appointment of trustee to fill vacancy.

(3)...on petition of ...a beneficiary the Court may, in its discretion, appoint a trustee...In selecting a trustee, the Court shall give consideration to the wishes of the beneficiaries...

2-33-622. Capacity of trustee.

(1) The trustee may be...a trust company or corporation.

(2) A beneficiary of a trust may be the trustee of the trust.

Chapter 34. Trust Administration

Part 1. Duties of Trustees

2-34-105. Duty to avoid conflict of interest.

(1) The trustee has a duty not to use...trust property for the trustee's own profit...

(3) Transaction between trustee and beneficiary by which trustee obtains an advantage...violation of trustee's fiduciary duties.

2-34-106. Duty not to undertake adverse trust. The trustee of one trust has a duty not to knowingly become a trustee of another trust adverse in its nature...to beneficiary...

2-34-107. Duty to take control of and to preserve trust property.

2-34-113. Duty not to delegate entire administration of trust.

(1)...may not transfer the office of trustee to another person or delegate administration...

2-34-116. Duty with respect to cotrustees.

(2) to prevent cotrustee from committing a breach of trust or to compell redress of a breach of trust.

2-34-124. Trustee's general duty to report information to beneficiaries. The trustee has a duty to keep the beneficiaries of the trust reasonably informed of the trust and its administration.

2-34-125. Duty to report information about trust on request... on reasonable request by a beneficiary, the trustee shall provide the beneficiary with a report of information about assets...

Part 5. Liability of Trustees to Beneficiaries

2-34-501. Breach of trust. A violation by the trustee of any duty that the trustee owes the beneficiary is a breach of trust.

2-34-503. Trustees liability to beneficiary for acts of cotrustee.

(2) A trustee is liable to the beneficiary for a breach...

(a) whenever the trustee participates in a breach of trust committed by the cotrustee;

(c) whenever the trustee approves, knowingly acquiesces in, or conceals a breach of trust...by...cotrustee;

2-34-512. Exculpation of trustee.

(2) A provision in the trust instrument is not effective to relieve the trustee of liability:

(a) for breach of trust committed intentionally, with gross negligence, or with reckless indifference to the interest of the beneficiary; or

(b) for any profit that the trustee derives from a breach of trust.

Chapter 35. Judicial Proceedings Concerning Trusts

Part 3. Proceedings Concerning Trusts

2-35-301. Petitioners - grounds for petition.

(d) ascertaining beneficiaries and determining to whom property...

(g) compelling trustee to report information about the trust or account to the beneficiary, if:

(i) the trustee has failed to submit a requested report within 60 days after written request; and

(ii) no report has been made within 6 months preceding...

(l) compelling redress of breach of trust by any available remedy;

2-35-302. Removing trustee; commencement of proceeding

(1) by filing a verified petition stating facts showing that the petition is authorized under this chapter and the grounds of the petition

(2) When a petition that requires a hearing is filed with the Court clerk, the clerk shall set the matter for hearing.

Article VII. Trust Statutes

(Continued rebuttal of Statute of Limitations specifically applied to trusts)

The Court is given jurisdiction over trustees and their administration of trust assets.

VERNON'S ANNOTATED TEXAS STATUTES PROBATE CODE

Chapter XII.

§ 674 James Daniel Bateman can be held liable if he shows: "reckless disregard, bad faith, malice, or is grossly negligent and wrong".

§500 Construction of Power Relating to claims and Litigation ...language empowers agent to: (1) assert counterclaim, relief of specific performance, suits to recover property or other thing of value, to recover damages sustained by the principal, or to seek an injunction, or other relief.

(3) in connection with an action or litigation, procure an attachment of libel, order of arrest, or other preliminary, provisional, or intermediate relief...and to effect a judgment, order, or decree.

§7-201 Trustees and beneficiaries are subject ot continual personal jurisdiction in subject matter litigation under the exclusive jurisdiction of the Court.

§7-102 James Daniel Bateman must provide evidence of the trust's existence and must register the trust.

§7-103(a) The Court has continuing jurisdiction power over trustees in the Court of registration. Notice of each proceeding must be mailed to the trustee by ordinary mail to any address known the the petitioner. Virtual representation (of beneficiary) a Court order...is binding when the proceeding is to review the acts or accounts of a prior fiduciary.

§7-302 to §7-307 The trustee has a duty to keep beneficiaries informed and to account, to administer efficiently, soundly, and appropriately (continually).

§

§7-306 (a)-(d) - Personal Liability third person may sue. Upon reasonable request, trustees must provide copies, information, and any other trust matters (such as accounting). The Court is given authority to replace trustees...

§7-101 to 7-105 Corporations may serve as Trustee.

§3-905 replicated in §2-517: No contest clauses are unenforceable.

§3-916 (c)(3) If because of negligent delay of the fiduciary, penalties or interest or both are assessed by authorities on the tax, the Court may determine that no apportionment of these additional amounts be charged against the persons with interests in the estate, and that the fiduciaries be personally responsible for these amounts.

§3-607 Provides Court order restraining acts that jeopardize interests of third parties with notice.

§3-403, 3-414, 3-1001 Provide for notice requirements by letter.

§3-1003 (a) (1) - (3) A verified statement of closing and a written full accounting must be sent to distributees.

§1-401 Persons notified are bound even though not all persons involved were notified.

§3-301 (b) The representative submits to continuing jurisiction of the Court.

REBUTTAL TO ANSWERS I, II, AND VII

§3-318 (a) Statement of Universal Succession: The Court has personal jurisdiction in any proceeding.

§3-1008 Upon a petition of any interested person, the Court is empowered to appoint a successor personal representative (trustee).

§3-611 (b) A personal representative can be removed for cause in the best interests if, by breach of duty, he has mismanaged the estate.

REBUTTAL TO ANSWERS IV, V, AND VI

§3-108 Statute of Limitations - the fifth exception permits formal proceedings after three years from the date of death to control property (unlimited). Example: The exercise of a power of appointment that is not effective until another person's life ends. The Statute of Limitations specifically does not apply to proceedings to construe wills that have been probated.

§1-106 There is no statute of limitations in cases of fraud, perjury, and other wrongdoing.

§3-1004 Provides for the return of improperly distributed property and income.

VERNON'S ANNOTATED TEXAS STATUTES PROBATE CODE

§58a. (c)...Property becomes a part of the trust to which it is devised or bequeathed and must be administered and disposed of in accordance with the provisions of the instrument establishing the trust.

§439A.(7) Trust Account. The trust account is not a part of a trustee's estate and does not pass under the trustee's will or by intestacy.

What are we to do about trustee misconduct?

§160. The surviving spouse has the power to sue and be sued for the recovery of Community Property.

AMERICAN LAW REPORTS

Delay of executor or administrator in filing inventory, account, or other report, or in completing administration and distribution of estate, as ground for removal. 33ALR4th 708.

§149A. Accounting

(a) Interested persons may demand an accounting.

(b) Enforcement of Demand. Should the independent executor not comply with a demand for an accounting authorized by this section within sixty days after receipt of the demand, the person making the demand may compel compliance by an action in the County Court. After a hearing, the Court shall enter an order requiring the accounting to be made at such time as it deems proper under the circumstances.

James Daniel Bateman failed to provide reports.
These reports have been specifically requested.

GENERAL PROVISIONS, NONTESTAMENTARY TRANSFERS, SINGULAR REFERENCE

§436 (14) "Trust Account" means an account in the name of one or more parties as trustee for one or more beneficiaries and there is no subject of the trust other than the sums on deposit in the account. A trust account does not include a trust agreement which has significance apart from the account, or a fiduciary account arising from a fiduciary relation such as attorney-client.

§869A. The Court may appoint a successor trustee if the trustee resigns, becomes ineligible, or is removed.

§36A. It shall be the duty of each County and Probate Court to use reasonable diligence to see that personal representatives of estates being administered under orders of the Court and other officers of the Court perform their duty by law.

§867.(b) The Court shall appoint a financial institution to serve as trustee of the trust.

(d) If the value of the trust's principal is more than $50,000.00, the Court may appoint a person other than a financial institution to serve as trustee of the trust only if the Court finds that:

(1) no financial institution is willing to serve as trustee. The Court must check any list of corporate fiduciaries located in this state that is maintained at the office of the presiding judge of the statutory probate Courts or at the principal office of the Texas Bankers Association.

CASE LAW - TEXAS

VERNON'S ANNOTATED TEXAS STATUTES

VI PROBATE CODE SPECIAL TYPES OF ADMINISTRATION

Where son who inherited title to a portion of father's share of community estate, on father's death, the grantee could bring an action to establish and confirm his title, where the wife qualified as survivor and repudiated the grantee's title and claim and held adversely thereto. Miller v. Miller (Civil Appeals 1921) 227 S.W. 737.

Verdict that deeds by the surviving (parent) of a community, conveying community property to creditors, were procured by fraud or coercion to the injury of the rights of the children of the grantor (parents).

Lipsitz v. Rice (Civil Appeals 1921) 233 S.W. 594.

Deed by surviving widow of not only her individual interest in the community estate but also her deceased husband's half of the community property for her individual benefit was void, and, since widow held property as statutory trustee for her children, they were entitled to recover the trust property and four-year statute of limitations did not apply to actions.

Gray v. Gray (Civil Appeals 1968) 424 S.W. 2d 309 ref. n.r.e..

A conveyance by a (parent) of (community property), made after the (spouse's) death, did not divest the child's title to one-half thereof as heir.

White v. Simonton (Civil Appeals 1902) 67 S.W. 1073.

dismissed w.o.j., motion overruled 68 S.W. 1000.

(Power not lost) regarding community property by lapse of four years after death of husband.

Davis v. Magnolia Petroleum Co. (Civil Appeals 1937)

105 S.W. 2d 695, affirmed 134 Tex. 201, 134 S.W. 2d 1042.

While the father could have set off gifts made to his children against their interest in the community estate, he could not authorize his executors to do so by disposing of the part of the community estate which would go to the children.

Tomlinson v. H. P. Drought & Co. (Civil Appeals 1910)

127 S.W. 262, error refused.

Under Revised Civil Statutes 1911, Article 2469 (see §45), husband's share of the community estate passed to his children or their descendants on his death, suject to the administrative right of the surviving wife to control, manage, and dispose of the community property under Revised Civil Statutes 1911, article 3600, and the action of the wife in qualifying as survivor did not divest the children of the title so acquired.
Miller v. Miller (Civil Appeals 1921) 227 S.W. 737.

If property belonging to the community was sold by the community administrator, and the proceeds invested, the children could claim the same rights in community property interest in the investments purchased as in the original community property.
Hales v. Peters (Civil Appeals 1913) 162 S.W. 386, error refused.

In a suit against the surviving spouse of a community estate by the heirs, to enjoin the wasting of assets, and to have an interest in some of the assets deposited in defendant's name, that defendant had departed from her frugal habits and shrewd business management.
Ward v. Veale (Civil Appeals 1923) 253 S.W. 844.

The child who sues for his share in the community property of a deceased parent is not asserting an equity, but a legal title.
Johnson v. Harrison (1877) 48 Tex. 268;
Dickerson v. Abernathy (Common Appeals 1880) 1 U.C. 107.

Community estate, by widow who was statutory community survivor of community estate of deceased husband, was a deed of gift. The grantee had the burden of showing, in trespass to try title by deceased's daughter, that the widow had the power to give the realty to the grantee.
Keller v. Downey (Civil Appeals 1942) 161 S.W. 2d 803.
Affirmed 143 Tex. 171, 183 S.W. 2d 426.

District accepted delivery of community property from and paid consideration to the parent who was not authorized to act for the sons, and who did not pay sons their share of consideration. District could not escape liability to sons for their share on ground that property was community property.
Willacy County Water Control & Inprovement Dist. No. 1 v. Hofer (Civil Appeals 1941) 149 S.W. 2d 1114.

"Good Faith" as used in connection with the conduct of a community survivor with respect to the community estate does not mean freedom to do with estate as survivor may choose, or reasonable grounds to believe that disposition of trust is legal, or honest intention to abstain from taking advantage of another, but is control of the trust estate for purposes sanctioned by the statute, in administration of the estate and to protect the trust on demand for partition and distribution...to the persons entitled to receive the surplus.
McFarland v. Beaton (Civil Appeals 1939) 126 S.W. 2d 719.
Affirmed 134 Tex. 652, 134 S.W. 2d 1058.

Where administration was granted on estate of husband, wife's control over community property ceased, and estate passed under jurisdiction of Probate Court for administration and settlement.

Waterman Lumber & Supply Co. v. Robbins, 1918, 206 S.W. 825.

Where the surviving wife had consented to and joined in a petition for the appointment of an adult son as general administrator, it was improvident to subsequently grant her an appointment as community administratrix; the law not contemplating two independent administrations at the same time.

McCarthy v. Texas Co. (Civil Appeals 1921) 235 S.W. 679.

On the granting of letters of administration to a third party, the wife's control over the community estate ceases, and the estate passes under the jurisdiction of the County Court.

Hollingsworth v. Davis (1884) 62 Tex. 438.

When there is a community estate, (the surviving spouse) has the choice to administer regularly or to take charge of the estate as community administrator and survivor of the community, but in either case the property vests in the children at the death of their mother.

Belt v. Cetti (Sup. 1906) 100 Tex. 92, 93 S.W. 1000.

VIII PROCEEDINGS DURING ADMINISTRATION

NOTE 2. CLAIMS ALLOWABLE

Where son had filed two suits in District Court against his adoptive mother seeking total damages of $2,700,000.00, claim based on those suits was rejected by temporary administrator, and the temporary administrator was joined as party defendant within 90 days from date of his rejection, the son's action of joining the temporary administrator as party defendant in the District Court suits was sufficient to preserve his claim.

Wilder v. Mossler (Civil Appeals 1979) 583 S.W. 2d 664.

NOTE 11. COMPROMISE AND SETTLEMENT

Son's actions against adoptive mother's estate for wrongful acts as executrix of her husband's estate and for wrongful conduct of affairs of corporation in which she owned a controlling interest and the son owned a minority interest dealt with unliquidated potential liability of kind that requires fact-findings to ascertain their amount; thus, they did not constitute "claim for money" of kind that must be presented to executor or administrator for approval as provided by §298 and Probate Court was not deprived of jurisdiction to entertain application to settle and compromise such litigation on basis that the claim had been rejected by temporary administrator and the son had thereafter failed to timely institute action in Probate Court.

Wilder v. Mossler (Civil Appeals 1979) 583 S.W. 2d 664.

An action may be brought by the heirs of the deceased (husband) for their interest. By specific statutory authority, a community administration can continue indefinitely, and the community administrator becomes a statutory trustee. Thus, heirs, as beneficiaries of the trust, are not barred by the statute of limitations from claiming their beneficial interest in the trust after the trustee has done some act that shows repudiation of the trust and that information is, or with reasonable diligence would be, brought to the knowledge of the beneficiary.

Matter of Jackson's Estate (Civil Appeals 1981) 613 S.W. 2d 80, ref. n.r.e. 620 S.W. 2d 102.

Equitable partition of the parents' community estate was made between children.

Nowlin v. Clary (Civil Appeals 1915) 178 S.W. 571, error refused.

A daughter received full satisfaction of her claim against her mother's estate.

Suggs v. Singley (Civil Appeals 1914) 167 S.W. 241.

In an action by a daughter to establish her interest in the community estate, the settlement was made for her interest out of her mother's separate estate.

Hand v. Errington, 1922, 242 S.W. 722.

PROBATE STATEMENT OF JOHN ROBERT BATEMAN

After my father died, I expected that his Last Will and Testament would be executed correctly and conscientiously. Unfortunately, this proper execution did not happen, and now I find myself in the unexpected position of defending my honorable father's will.

Your Honor's attention is directed to the exhibit of the Last Will and Testament of Harold Marion Bateman which shows the general principle of equal divisions of gifts when required. (1) (c) (ii) Upon the death of Martha Joan Bateman, the Community Marital Trust remainder is to be distributed equally in three equal divisions. (3) Commencing at death, income from the Separate Property must be distributed to Martha Joan Bateman. (4) Unfortunately, proper income distribution did not happen. Your Honor's attention is directed to the exhibits of financial statements concerned with my late father's property. The April-May 2002 statements demonstratethe correct transfer of the Separate Property income twice per month to an account under Martha Joan Bateman's control which had been underway since my father's death.

However, the mismanagement, misconduct, and negligence of James Daniel Bateman, serving as father's executor would be demonstrated. A Stop Payment Order was issued on June 5, 2002 so that this income was not properly received and would not be received until the Separate Property was distributed in three equal divisions on October 15, 2003. (Only then was I legally able to resume the income transfer from my equal 1/3 rd division properly). In the meantime, in November 2002, the Community Property Trust was formed. However, in addition to refusing to purchase a grave marker for his father, James Daniel Bateman stole even more money from his mother. Your Honor's attention is directed to the next exhibit of financial statements. In October 2003, James Daniel Bateman ordered that cash, which should have already been received by his mother, instead be deposited to personal accounts. In December 2003, James Daniel Bateman ordered again the same sort of fiscal misappropriation. Thus, during this time, a slanderous, libelous, chronic alcoholic improperly executed my father's Will and abuses his power even to the present day. The company trust department would have done better.

Your Honor's attention is directed back to the Last Will and Testament of Harold Marion Bateman. (page 6 paragraph 7) Initially reports were not made available for about half a year in 2002, and were only provided to me upon special request. Then, July 1, 2005 reports were abruptly cancelled without warning or explanation. Further special requests did not produce the reports required by father's Will. I petition the Court to order Specific Performance as provided by V.A.T.S. Texas Probate Code section 500 chapter XII to resume provision of the specific reports.

As previously cited in this claim, paragraph (3) provides, upon distribution, for an equal three-way division of the Community Property Marital Trust. Harold Marion Bateman has three descendants to which he intended to provide three equal shares of his property as demonstrated by a flow chart exhibit. Providing everything to his sons in exactly equal amounts was a hallmark and guiding principle of his fatherhood. This provision for an equal three-way division of the Community Property Marital Trust must not be interfered with in any way. Your Honor's attention is directed to the statement of the Harold Marion Bateman Community Property Marital Trust. In March 2005, a substantial value of $300,000 was illegally withdrawn from this Trust. I petition the Court to order Specific Performance to return a refund of this money to where it belongs.

JS 44 (Rev. 07/16)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS	DEFENDANTS
~~John R.~~ Bateman, John R. 5045 Cassandra Way Reno, NV 89523-1876	Bateman, James D. James Daniel Bateman 3214 Festus Dr. Austin, TX 78748-1874
(b) County of Residence of First Listed Plaintiff: Washoe *(EXCEPT IN U.S. PLAINTIFF CASES)*	County of Residence of First Listed Defendant: Travis *(IN U.S. PLAINTIFF CASES ONLY)* NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
(c) Attorneys *(Firm Name, Address, and Telephone Number)*	Attorneys *(If Known)*

5-17CV0072-C

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☑ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☑ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☑ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☑ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☑ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

V. ORIGIN *(Place an "X" in One Box Only)*

- ☑ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District *(specify)*
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*: See Section: Supporting Research in Uniform Probate Code

Brief description of cause: Specific Performance by Executor

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $ 300,000.00

CHECK YES only if demanded in complaint: **JURY DEMAND:** ☐ Yes ☑ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE ____________ DOCKET NUMBER ____________

DATE 4-7-2017 SIGNATURE OF ATTORNEY OF RECORD John R. Bateman

FOR OFFICE USE ONLY

RECEIPT # LU009240 AMOUNT 400.00 APPLYING IFP ______ JUDGE ______ MAG. JUDGE ______